

APPENDIX # 9

**ORDER FROM MINNESOTA APPELLATE COURT DATED NOVEMBER 5,
2024**

STATE OF MINNESOTA
COURT OF APPEALS

JERRY SMITH
600 West 93rd Street #107
Bloomington MN 55420

NOTICE OF CASE FILING
Trial Court Case # 27-CV-23-19463
Case Type: Prohibition/Mandamus

Case Title: In re Jerry Smith, Petitioner.
Case Filed: November 5, 2024

You are notified that case number A24-1746 has been assigned to this matter. Please include this number on all subsequent filings, including correspondence, to this office. Also, please include your attorney registration number on all filings.

Effective July 1, 2014, no party may submit an appendix to its brief, pursuant to Rule 130. If the record includes a statement of the proceedings made pursuant to Rule 110.03 or an agreed statement made pursuant to Rule 110.04, the statement shall be included in the addendum as prescribed by Rule 130.02. Please refer to Rule 130.02 for additional guidelines regarding the addendum.

This office will send notice to the trial court administrator when transmission of the trial court records and exhibits is required. If oral arguments are requested, counsel must file and update notice regarding oral arguments, to provide information about potential scheduling conflicts. The form is available at: www.mncourts.gov/argumentscheduling

\$550 filing fee or copy of a district court order waiving filing fee on appeal is required. Proof of service of the petition on all respondents is required.

IF ANY DEFICIENCIES ARE NOTED ABOVE, THEY MUST BE CORRECTED BY THE FILING PARTY (OR AS OTHERWISE NOTED) WITHIN TEN DAYS. FAILURE TO COMPLY WITH THIS NOTICE, ALL APPLICABLE RULES, COURT NOTICES, AND ORDERS MAY RESULT IN THE IMPOSITION OF SANCTIONS.

Dated: November 6, 2024

BY THE COURT:

Christa Rutherford-Block
Office of the Clerk of the Appellate Courts
305 Minnesota Judicial Center
St. Paul, Minnesota 55155

9A

FILED

December 12, 2024

**OFFICE OF
Appellate Courts**

STATE OF MINNESOTA

IN COURT OF APPEALS

In re Jerry Smith, Petitioner,

O R D E R

Jerry Smith,

A24-1746

Petitioner,

vs.

Allstate Insurance, et al.,

Respondents,

The Hartford, et al.,

Respondents,

The General Automobile Insurance Services, et al.,

Respondents,

State Farm Mutual Automobile Insurance, et al.,

Respondents,

Minnetonka Police Department, et al.,

Respondents,

Yesnia Del Carmen Witcher,

Respondent,

Express Employment Professionals, et al.,

Respondents,

Japs-Olson Company, et al.,

Respondents.

9 B

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

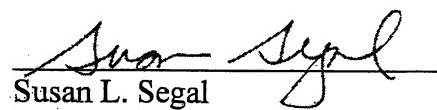
1. This petition for a writ of prohibition was filed by petitioner Jerry Smith on November 5, 2024.
2. In a November 6, 2024 notice of case filing, the clerk of the appellate courts directed petitioner to (a) pay the \$550 filing fee or file a copy of the district court order waiving filing fee on appeal and (b) file proof of service of the petition on all respondents.
3. In a November 25, 2024 order, this court directed petitioner to (a) file proof of service of the petition on counsel for respondents Japs-Olson Company, Mike Beddor, and Jesse Dodge; (b) file proof of service of the petition on self-represented respondent Yesnia Del Carmen Witcher; (c) pay the \$550 filing fee or file a copy of a district court order waiving the filing fee on appeal; and (d) file a copy of the petition with the district court administrator by December 6, 2024.
4. Our records indicate that petitioner has not subsequently taken any action in this court, including filing any proof of service of the petition, paying the \$550 filing fee, or filing a copy of a district court order waiving the filing fee on appeal. Therefore, petitioner has not remedied certain deficiencies identified in the notice of case filing and our November 25, 2024 order. We will afford petitioner a final opportunity to remedy those deficiencies as directed below.

IT IS HEREBY ORDERED:

1. On or before December 23, 2024, petitioner Jerry Smith shall (a) file in this court proof of service of the petition on counsel for respondents Japs-Olson Company, Mike Beddar, and Jesse Dodge; (b) file in this court proof of service of the petition on self-represented respondent Yesnia Del Carmen Witcher; and (c) pay the \$550 filing fee or file in this court a copy of a district court order waiving the filing fee on appeal.
2. Petitioner's failure to comply with this order may result in the dismissal of the petition without further notice.
3. The clerk of the appellate courts shall provide copies of this order to the Honorable Jamie L. Anderson, the self-represented petitioner, respondents or their counsel if represented, and the district court administrator.

Dated: December 12, 2024

BY THE COURT



Susan L. Segal
Chief Judge

FILED

January 6, 2025

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
IN COURT OF APPEALS**

In re Jerry Smith, Petitioner,

Jerry Smith,

Petitioner,

vs.

Allstate Insurance, et al.,

Respondents,

The Hartford, et al.,

Respondents,

The General Automobile Insurance Services, et al.,

Respondents,

State Farm Mutual Automobile Insurance, et al.,

Respondents,

Minnetonka Police Department, et al.,

Respondents,

Yesnia Del Carmen Witcher,

Respondent,

Express Employment Professionals, et al.,

Respondents,

qc

Japs-Olson Company, et al.,

Respondents.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Petitioner Jerry Smith filed this petition for a writ of prohibition on November 5, 2024. In a November 6, 2024 notice of case filing, petitioner was directed to remedy deficiencies within ten days, including either paying the \$550 filing fee or filing a copy of an order from the district court waiving the filing fee on appeal.

2. By order filed November 25, 2024, this court directed petitioner, by December 6, 2024, to pay the \$550 filing fee or file a copy of a district court order waiving the filing fee on appeal, in addition to remedying other deficiencies.

3. By order filed December 12, 2024, this court directed petitioner, by December 23, 2024, to pay the \$550 filing fee or file in this court a copy of a district court order waiving the filing fee on appeal, in addition to remedying other deficiencies.

4. On December 27, 2024, petitioner filed a response to this court's December 12, 2024 order, in which petitioner requests that this court "adjudicate [petitioner's] application filed in the district court for an order of fee waiver based on all information [petitioner] provided [the district court] on this subject matter, and for [this court] to promptly issue an order allowing [petitioner] to proceed on this appeal in forma pauperis."

5. We construe petitioner's request as a motion in this court seeking review of the district court's December 9, 2024 order denying petitioner's fee waiver request and the district court's December 26, 2024 order denying reconsideration. If a motion for a fee

waiver is denied by the district court, a party may challenge the denial by motion in this court. Minn. R. Civ. App. P. 109.02 (“If the trial court denies the motion, the party shall, within 14 days . . . either: (a) pay the filing fee . . . or (b) serve and file a motion in the Court of Appeals for review of the trial court’s order denying *in forma pauperis* status.”). This court’s review is limited to the record presented to the district court. *Id.*

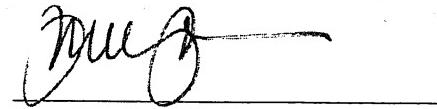
6. Petitioner’s motion submitted to the district court supports a determination that petitioner’s household income exceeds 125% of the federal poverty guidelines and that petitioner has not otherwise established indigency. Because petitioner failed to establish indigency, petitioner is not entitled to a fee waiver in this appeal.

IT IS HEREBY ORDERED:

1. Petitioner’s motion for a fee waiver is denied.
2. On or before January 17, 2025, petitioner shall pay the \$550 filing fee to the clerk of the appellate courts. Failure to pay the filing fee will result in the dismissal of this petition without further notice.
3. The clerk of the appellate courts shall provide copies of this order to the Honorable Jamie L. Anderson, the self-represented petitioner, respondents or their counsel if represented, and the district court administrator.

Dated: January 6, 2025

BY THE COURT



Jennifer L. Frisch
Chief Judge

FILED

January 31, 2025

**OFFICE OF
APPELLATE COURTS**

**STATE OF MINNESOTA
IN COURT OF APPEALS**

In re Jerry Smith, Petitioner,

ORDER

Jerry Smith,

A24-1746

Petitioner,

vs.

Allstate Insurance, et al.,

Respondents,

The Hartford, et al.,

Respondents,

The General Automobile Insurance Services, et al.,

Respondents,

State Farm Mutual Automobile Insurance, et al.,

Respondents,

Minnetonka Police Department, et al.,

Respondents,

Yesnia Del Carmen Witcher,

Respondent,

Express Employment Professionals, et al.,

Respondents,

90d

Japs-Olson Company, et al.,

Respondents.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. This petition for a writ of prohibition was filed on November 5, 2024.
2. In a November 6, 2024 notice of case filing, petitioner was directed to remedy deficiencies within 10 days, including either paying the \$550 filing fee or filing a copy an order from the district court waiving the filing fee on appeal.
3. We filed orders on November 25, 2024 and December 12, 2024 instructing petitioner to remedy deficiencies, including paying the \$550 filing fee or filing a copy of a district court order waiving the filing fee on appeal.
4. On January 6, 2025, we filed an order denying petitioner's motion for a fee waiver and instructing petitioner to pay the \$550 filing fee to the clerk of the appellate courts by January 17, 2025. We warned that "[f]ailure to pay the filing fee will result in the dismissal of this petition without further notice."
5. Our records do not reflect that petitioner has paid the \$550 filing fee. We therefore dismiss this appeal pursuant to our January 6, 2025 order.

IT IS HEREBY ORDERED:

1. This petition for a writ of prohibition is dismissed.

2. The clerk of the appellate courts shall provide copies of this order to the Honorable Jamie L. Anderson, the self-represented petitioner, respondents or their counsel if represented, and the district court administrator.

Dated: January 31, 2025

BY THE COURT

 Frisch, Jennifer
2025.01.31 14:04:46
-06'00'

Jennifer L. Frisch
Chief Judge